

**LYNCHBURG CITY COUNCIL
Agenda Item Summary**

MEETING DATE: **September 14, 2004**

AGENDA ITEM NO.: 14

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – 149 Bon Ton Road, Nextel Partners, Inc.**

RECOMMENDATION: Approval of the requested Conditional Use Permit.

SUMMARY: Nextel Partners, Inc., is petitioning for a conditional use permit at 149 Bon Ton Road to allow the construction of telecommunications equipment in an R-1, Single-Family Residential District. The Planning Commission recommended approval of the CUP because:

- The petition agrees with the *Comprehensive Plan* which permits public and institutional uses in Low Density Residential areas.
- Petition proposes the use of an existing transmission tower to collocate a telecommunications facility that will incorporate a stealth design.

PRIOR ACTION(S):

August 25, 2004: Planning Division recommended approval of the CUP.
Planning Commission recommended approval 5-0 (with 2 members absent) of the CUP with the following conditions:

1. The property shall be developed in substantial compliance with the site plan Nextel Partners, Peakland, VA139P, received July 28, 2004.
2. The buildings and fence shall be of a “stealth” design and will be constructed as shown in the submitted photo simulations.
3. The “fort worth” extension shall be painted a color as determined by the Planning Division.
4. Landscaping shall be maintained.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 455-3902

Tom Martin / 455-3909

ATTACHMENT(S): **ALL ATTACHMENTS CAN BE VIEWED IN THE DEPARTMENT OF COMMUNITY PLANNING AND DEVELOPMENT, 2ND FLOOR, CITY HALL, 900 CHURCH STREET.**

- Resolution
- PC Report
- PC minutes
- Vicinity Zoning Pattern
- Vicinity Land Use
- Site plans
- Letter of support
- Speaker Sign Up Sheet

REVIEWED BY: lkp

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO NEXTEL PARTNERS, INC. FOR USE OF THE PROPERTY AT 149 BON TON ROAD TO ALLOW CONSTRUCTION OF TELECOMMUNICATIONS EQUIPMENT, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of Nextel Partners, Inc. for use of the property at 149 Bon Ton Road to allow construction of telecommunications equipment be, and the same is hereby, approved, subject to the following conditions:

1. The property shall be developed in substantial compliance with the site plan Nextel Partners, Peakland, VA139P, received July 28, 2004.
2. The buildings and fence shall be of a "stealth" design and will be constructed as shown in the submitted photo simulations.
3. The "fort worth" extension shall be painted a color as determined by the Planning Division.
4. Landscaping shall be maintained.

Adopted:

Certified:

Clerk of Council

127L

The Department of Community Planning & Development
City Hall, Lynchburg, VA 24504
434-455-3900

To: Planning Commission
From: Planning Division
Date: August 25, 2004
Re: **CONDITIONAL USE PERMIT (CUP): 149 Bon Ton Road, Nextel Partners.**

I. PETITIONER

Nextel Partners, Inc. 5115 Bernard Drive, #200, Roanoke, VA 24018.

Representative: Mr. Steven Sung, Nextel Partners, Inc. 5115 Bernard Drive, #200, Roanoke, VA 24018.

II. LOCATION

The subject property is a tract of about 1.6 acres located at 149 Bon Ton Road.

Property Owners: Chip & Marilyn Carpenter, 149 Bon Ton Road, Lynchburg, VA 24503.

III. PURPOSE

The purpose of this petition is to allow the construction of a fifteen (15) foot telecommunications antenna extension to an existing American Electric Power (AEP) tower and a two hundred (200) square foot equipment cabinet in an R-1, Single-Family Residential District.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan which permits public and institutional uses in a Low Density Residential Area.
- Petition agrees with the Zoning Ordinance in that a telecommunication facility is a permitted use in an R-1, Single-Family Residential District upon approval of a Conditional Use Permit by the Planning Commission and City Council.
- Petition proposes the use of an existing transmission tower to collocate a telecommunications facility and will incorporate a stealth design.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends Low Density Residential land use for the subject property. Low Density Residential Areas are dominated by single-family housing at densities of up to four (4) units per acre. Additional uses may include public and institutional uses compatible in scale with single-family residential homes. The collocation of telecommunication facilities on existing towers is encouraged. The proposed telecommunication cabinet will be similar in scale and appearance to a residential storage building.
2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-1, Single-Family Residential zoning was established in 1978 with the adoption of the current *Zoning Ordinance*.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed residential subdivision.
4. **Surrounding Area.** The following items have required City Council approval in the area:
 - November 13, 1979, the City Council approved the CUP petition of Peakland Swim Club for a conditional use permit to allow the construction of tennis courts on Woodcrest Drive.
 - May 8, 1984, the City Council approved the CUP petition of Carriage Associates to allow the construction of a forty (40) unit Planned Unit Development at the corner of Boonsboro and Bon Ton Roads.
 - March 10, 1987, the City Council approved the CUP petition of Lynchburg Day School to allow the construction of a building addition at 5039 Boonsboro Road.
 - August 14, 1990, the City Council approved the CUP petition of Frank Gough for the construction of a Planned Unit Development on Irvington Springs Road.

- February 9, 1993, the City Council approved the CUP petition of Peakland Swim Club to allow the construction of recreation facilities at 2149 Burnt Bridge Road.
 - October 11, 1994, the City Council approved the CUP petition of Baptist General Association to allow the construction of a seven hundred (700) seat sanctuary at 5077 Boonsboro Road.
 - April 9, 1996, the City Council approved the CUP petition of James River Day School to allow the expansion of the existing school facilities at 5039 Boonsboro Road.
 - January 31, 1998, the City Council approved the CUP petition of Network for Women in Crisis for a group home and play area at 5077 Boonsboro Road.
 - April 14, 1998, the City Council approved the CUP petition of James River Day School to allow the construction of building additions at 5039 Boonsboro Road.
 - On June 9, 1998, the City Council denied the CUP petition of Manorhouse Retirement Center to allow the construction of an assisted living retirement center at the intersection of Boonsboro Road and Scenic Drive.
5. **Site Description.** The subject property is bounded to the north, south, east and west by single-family residential uses.
 6. **Proposed Use of Property.** The purpose of the CUP is to allow construction of a telecommunications antenna and equipment shelter.
 7. **Traffic and Parking.** The City Traffic Engineer has no comments of concern regarding the subject petition. The proposed use is not expected to generate a significant amount of traffic. Any vehicles at the proposed site will be able to park in the proposed twelve (12) foot access driveway.
 8. **Storm Water Management.** Development of the subject property is not expected to generate a significant amount of stormwater. A stormwater management plan / erosion and sediment control plan will be required if disturbed areas are to exceed one thousand (1000) square feet.
 9. **Impact.** A series of transmission towers and the wires they support already have a major impact on the visual quality of the immediately surrounding neighborhood. The visual impact of the extension to the existing tower will be minimal. The petitioner has agreed to work with the Planning Division in choosing a color for the proposed extension that will help it blend into the sky better than a galvanized metal extension would. The petitioner has submitted photo simulations of the proposed equipment shelter, showing a brick façade and pitched roof, similar to a residential out building. Impacts from the proposal should be minimal.
 10. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on July 20, 2004. Comments related to the petition were minor in nature, and have or will be addressed by the petitioner prior to final site plan approval.
 11. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary or appropriate in approving a CUP.
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VI. PLANNING DIVISION RECOMMENDED MOTION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Nextel Partners, Inc. to allow the construction of telecommunications equipment at 149 Bon Ton Road subject to the following conditions:

1. **The property shall be developed in substantial compliance with the site plan Nextel Partners, Peakland, VA139P, received July 28, 2004.**
2. **The buildings and fence shall be of a “stealth” design and will be constructed as shown in the submitted photo simulations.**
3. **The “fort worth” extension shall be painted a color as determined by the Planning Division.**
4. **Landscaping shall be maintained.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. R. Douglas Dejarnette, Fire Marshal
Ms. Judith C. Wiegand, AICP, Senior Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. Kent White, Environmental Planner
Mr. Steven Sung, Representative

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
(see attached map)
- 2. Vicinity Proposed Land Use**
(see attached map)
- 3. Site Plan**
(see attached site plans)
- 4. Photo Simulations**
(see attached photo simulations)

MINUTES FROM THE AUGUST 25 PLANNING COMMISSION MEETING

These minutes have been reviewed, but not approved, by the Planning Commission

Petition of Nextel Partners, Inc., for a Conditional Use Permit at 149 Bon Ton Road to allow the construction of telecommunications equipment in an R-1, Single-Family Residential District.

Chair Dahlgren told the Commission that he had received a letter from the Chief of Police, Charles Bennett, in support of the petitions of Nextel. Chief Bennett wrote that the addition of the two towers would enhance the quality of area police and fire department communications.

Mr. Nathan Holland, 5115 Bernard Drive, Roanoke, Virginia, represented Nextel in their requests. He said this project was a fifteen-foot extension on an existing tower to provide cellular service in the area.

Commissioner Bacon asked about the upkeep of the area, such as mowing and keeping the vines off the tower itself.

Mr. Holland said it was American Electric Power's responsibility to keep the area under the tower cleared, which is done a few times a year. He said Nextel had maintenance crews that took care of the landscaping and work on their site. He said they had no authority to keep the area owned by AEP clear of overgrowth.

Chair Dahlgren said this was exactly how he thought cell towers should be constructed, which was on existing structures.

Commissioner Echols voiced his approval of co-locating on existing towers.

After discussion, Commissioner Echols made the following motion, which was seconded by Commissioner Worthington and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the petition of Nextel Partners, Inc. to allow the construction of telecommunications equipment at 149 Bon Ton Road subject to the following conditions:

1. The property shall be developed in substantial compliance with the site plan Nextel Partners, Peakland, VA139P, received July 28, 2004.
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AYES: Bacon, Dahlgren, Echols, Flint, Worthington

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NOES:

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ABSTENTIONS:

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